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Cross-border Trade and Investment

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编者按：本刊旨在报道与中国有关的跨境贸易与投资的最新动态与我们的实务经验，但本刊不可替代个案的正式法律意见。您若重复收到本刊或者要订阅、退订或进一步了解本刊的内容，请与大成的有关律师联系。

Editor's note: the purpose of this publication is to report the most recent developments in the field of cross-border trade and investment in connection with China, as well as our practical experience therein. However, this publication should not be treated as a substitute for a formal legal opinion in individual cases. If you have received this publication more than once, or would like to subscribe or unsubscribe to this publication, or follow up on any issues raised in this publication, please be in contact with the lawyer you usually deal with at Dacheng Law Offices.

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LEGISLATIVE NEWS

- **山东：鼓励外资举办营利性或非营利性医疗机构（来源：大众日报，2013 年 11 月 5 日）**

  Shandong Encourages Foreign Capital to Establish Profit-making and Non-profit Medical Institutions(Source: www.dzrb.dzwww.com, Nov.5, 2013)

11 月 1 日，山东省政府办公厅下发《山东省人民政府关于加快服务业发展的若干意见》（《意见》），共 30 条，提出通过加强引导、增加投入、简政放权、优化环境、激励创业、推动创新、强化考核等一系列举措，助推服务业改革发展，力争到 2020 年，服务业增加值占生产总值比重达到 50%左右，基本形成服务业占主导地位的经济结构。

On November 1, the General Office of the People's Government of Shandong Province issued Several Opinions of the People's Government of Shandong province on the Promotion of the Development of the Service Sector (the "Opinions"), which consist of 30 opinions to help and promote the reform and development of service sector through a series of measures such as enhancing guidance, increasing input, streamlining administrating and decentralization, optimizing environment, encouraging establishment of business, promotion of innovation and strengthening assessment, and to strive to increase the proportion of the added value of the service sector in total output value to around 50% by 2020 and basically form an economic structure led by the service sector.

《意见》明确，扩大服务业对外开放。鼓励外资在山东省以合资、合作方式举办营利性或非营利性医疗机构，逐步取消境外资本的股比限制。放宽对外商投资小额贷款公司股比限制。落实外商投资企业国民待遇，健全完善外商投诉协调机制。

It is explicitly specified in the Opinions to expand the opening of the service sector to the outside world, encourage foreign capital to establish profit-making or non-profit medical

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institutions in forms of joint venture or cooperation in Shandong Province, gradually cancel shareholding limits of overseas capital, relax the shareholding limits of foreign-funded small loan companies, realize the national treatment of foreign-funded enterprises and perfect and improve the foreign investment complaining and coordinating mechanism.

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- **深圳市发展和改革委员会印发《深圳市产业结构调整优化和产业导向目录》（来源：深圳政府在线，2013 年 11 月 8 日）**

  Shenzhen DRC Prints and Distributes Catalogue of Shenzhen City on the Industrial Structural Adjustment and Optimization and the Industrial Orientation (Source:www.sz.gov.cn, Nov.8, 2013)

近日，深圳市发展和改革委员会印发《深圳市产业结构调整优化和产业导向目录》（《目录》）。

Shenzhen Municipal Development and Reform Commission ("Shenzhen DRC") recently printed and distributed the Catalogue of Shenzhen City on the Industrial Structural Adjustment and Optimization and the Industrial Orientation (the "Catalogue").

根据《目录》，深圳产业发展条目分为鼓励发展类、限制发展类和禁止发展类三大类，其中，生物、新能源等战略性新兴产业及现代服务业入选鼓励发展类。鼓励发展类产业包括战略性新兴产业、服务业、制造业、海洋产业四个大项，其中海洋产业也是首次作为大项，凸显深圳对发展海洋产业的重视。

According to the Catalogue, the clauses and subclauses for the industry development in Shenzhen City focus on three major categories: supporting, restrictive and prohibitive, among which, biology, new energy and other strategic emerging industries and the modern service industry are classified under the supporting category. The industries with supported development contain four major sectors: the strategic emerging industries, the service industry, the manufacturing industry, and the marine industry. Among others, the marine industry is selected as a major sector for the first time, highlighting that Shenzhen City emphasizes the development of marine industry.

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- **上海自贸区外商独资医疗机构管理暂行办法出台（来源：www.shanghai.gov.cn，2013 年 11 月 29 日）**

  Shanghai Introduces Provisional Measures for the Administration of Wholly Foreign-owned Medical Institutions in FTZ(Source: www.shanghai.gov.cn, Nov.29, 2013)

上海市卫生计生委、市商务委和市工商局近日联合制定了《中国（上海）自由贸易试验区外商独资医疗机构管理暂行办法》（以下简称《暂行办法》）。港澳台投资者在自贸区举办独资医疗机构也参照本规定。

Recently, the Shanghai Municipal Health & Family Planning Commission, Shanghai Municipal Commission of Commerce and Shanghai Administration for Industry

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&Commerce have jointly formulated the Provisional Measures for the Administration of Wholly Foreign-owned Medical Institutions in China (Shanghai) Pilot Free Trade Zone (hereinafter referred to as the "Provisional Measures"). Investors from Hong Kong, Macao and Taiwan may set up solely-funded medical institutions in China (Shanghai) Pilot Free Trade Zone (FTZ) with reference to these Provisional Measures.

《暂行办法》规定，设置的外商独资医疗机构必须为独立法人，最低投资总额 2000 万元人民币，且经营期限为 20 年。申请设置外商独资医疗机构的外国投资者需要具有五年相关经验，且要求能够提供国际先进的医疗机构管理经验、先进的医学技术和设备、并且可以补充所在地医疗领域的不足。

According to the Provisional Measures, a wholly foreign-owned medical institution to be established must be an independent legal entity with the total investment of not less than 20 million yuan and the operating period of 20 years. And its foreign investors shall have relevant experience of five years, and shall be able to provide internationally advanced experience in management of medical institutions, advanced medical technologies and equipment. The proposed wholly foreign-owned medical institution should be supplementary for the local medical fields.

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- **上海市工商局为外商企业进驻自贸区开辟快车道（来源：解放日报，2013 年 10 月 11 日）**

Shanghai Administration for Industry & Commerce Opens up a Fast Lane for Foreign-invested Enterprises Entering the Pilot Free Trade Zone(Source:Jiefang Daily, Oct.11, 2013)

企业进驻自贸试验区的热情高涨，但由于不少申请人尚未“吃透”政策，因此仍有不少困惑。对此，上海市工商局昨天表示将及时发出“一表申请、一口受理”的“直通车”咨询信息，为外商企业进驻自贸区开辟“快车道”。

Enterprises enter the Pilot Free Trade Zone enthusiastically. However, many applicants are confused due to the failure to understand policies thoroughly. Therefore, Shanghai Administration for Industry & Commerce stated that one-stop advisory information of "Application Using One Form, Treatment via One Window" would be provided timely to open up a fast lane for foreign-invested enterprises entering the Pilot Free Trade Zone.

据上海市工商局介绍，外商投资企业在上海自贸区申请设立时，具体申请流程为：第一，外商投资企业申请设立的，申请人在取得《企业名称预先核准通知书》后，可

以访问互联网中国上海门户网站的“试验区投资办事直通车”网页，通过准入导航等栏目查看办理流程及材料清单。第二，申请人应当进入“负面清单”栏目进行比对，确定所需要填报和提交的备案或审批材料类型。第三，在进行互联网“一表申报”时，申请人进入“外商投资企业设立”标签页的“网上申请”栏目进行申请信息填写。第四，申请人携带“一表申报”系统打印的表格及材料至试验区一口受理窗口现场提交。第五即各部门审核（备案），在收到一口受理材料后，自贸区管委会、工商、质监和税务部门利用政务外网的公网平台进行同步审核或备案。

According to Shanghai Administration for Industry & Commerce, the specific procedures for foreign-invested enterprises to apply for the establishment in the Shanghai Pilot Free Trade Zone are as follows: firstly, after obtaining the Notice of Advance Approval of Enterprise Name, the applicant may visit the page of "Express for Handling Matters in the Pilot Free Trade Zone" in China Shanghai government portal to view the procedures and the material list through the Access Navigation and other columns; secondly, the applicant should make a comparison after entering the Column "Negative List" to determine the type of materials required to be completed and submitted for filling or approval; thirdly, when making "Application Using One Form" on the internet, the applicant shall complete the application information in Column "Online Application" in the tab of "Establishment of Foreign-invested Enterprises"; fourthly, the applicant shall go to the window in the Pilot Free Trade Zone and submit the application form and relevant materials printed from the system of "Application Using One Form"; fifthly, review (filing) by various departments: the departments such as the Administrative Committee of Pilot Free Trade Zone, department for industry and commerce, department of quality supervision and tax department shall synchronously review or file those application materials using the public network platform in the external network for government administration.

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- **上海自贸区暂禁外资企业拍卖文物（来源：北京商报，2013 年 11 月 8 日）**

Shanghai Pilot Free Trade Zone Temporarily Bans the Auction of Cultural Relics by Foreign-Funded Enterprises(Source:www.bbtnews.com.cn, Nov.8, 2013)

上海自贸区挂牌一个多月后，对于自贸区内是否应允许外资拍卖行独立拍卖文物艺术品的讨论仍然不绝于耳。11 月 7 日，中国拍卖行业协会会长张延华明确表示，我国确定上海自贸区内目前不会对外资拍卖行开放文物拍卖，今后是否会有望对外资拍卖行开放这一业务目前还是未知数。至此，外资借助上海自贸区窗口进驻我国内地拍卖行业的愿望彻底落空。

More than one month after the Shanghai Pilot Free Trade Zone was established, the disputes over whether the foreign-funded auction companies shall be allowed to independently sell the cultural relic artworks by auction in the Pilot Free Trade Zone or not are still lingering in our ears. On November 7, Zhang Yanhua, the president of the China Association of Auctioneers, made it clear that, for now in China, the foreign-funded auction companies shall not be granted with qualifications for auction of cultural relics in Shanghai Pilot Free Trade Zone, and it still remains uncertain whether the foreign-funded auction companies will be granted with such qualifications in the future. At this point, the

foreign-funded enterprises' hope to enter into the auction industry of Mainland China through Shanghai Pilot Free Trade Zone as the window proves thoroughly in vain.

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- **山东首批外资小额贷款公司获批（来源：商务部研究院信息咨询中心，2013 年 11 月 14 日）**

First Batch of Foreign-invested Small Loan Companies in Shandong Approved(Source:www.mofcom.gov.cn, Nov.14, 2013)

近日，青岛市金融办今年下半年小额贷款公司试点资格中标结果公示结束，18 家中标企业中包含 2 家外资企业。这意味着，山东省首批由外资发起设立的小额贷款公司获批筹建。

The bidding result announcement of pilot qualifications for small loan companies in the second half of this year by the finance office of Qingdao city have come to an end, and there are two foreign companies among 18 enterprises winning the bid. This means that the first batch of foreign-invested small loan companies have been approved for incorporation.

根据青岛市的招标结果，此次中标的 2 家外资小额贷款公司分别是青岛市城阳区亚联财小额贷款有限公司和青岛市市北区维信小额贷款公司。其中，青岛市城阳区亚联财小额贷款有限公司注册资本达到 3 亿元，主发起人为香港亚洲联合财务有限公司。

According to the bidding results, the two foreign small loan companies are Qingdao Chengyang United Asia Finance Small Loan Limited and Qingdao ShibeiWeixin Small Loan Limited. Qingdao Chengyang United Asia Finance Small Loan Limited has a registered capital of CNY300 million and its principal sponsor is Hong Kong United Asia Finance.

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